



December 19, 2012

Via Electronic Comment Filing System

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20544

Re: In the Matter of Entercom Communications Corp.,
Petition to Amend Section 73.1216 Licensee-Conducted Contests
RM No. 11684

The North Carolina Association of Broadcasters (the "Association") files these comments in response to the Commission's Public Notice issued November 20, 2012, in the above-referenced matter. The Association fully supports the Petition for Rulemaking to modify the FCC's station-conducted contest rule filed by Entercom on January 20, 2012 (the "Petition").

The Commission's licensee-conducted contest rule requires a station that broadcasts or advertises information about a contest it conducts to "fully and accurately disclose the material terms of the contest" and to "conduct the contest substantially as announced or advertised."¹ The rule also prohibits any false, misleading, or deceptive description of any "material term" of the contest.² Note 2 of the Commission's contest rule, as more fully discussed in the Petition, further provides that the disclosure of "material terms" of a station-conducted contest must be made by periodic announcements over the air.³

The Petition generally proposes to modify the station-conducted contest rule by altering Note 2 of Rule 73.1216 to allow the required disclosure of material terms of the contest by either (a) announcements broadcast by the station over the air, or (b) in written form on a website and by email, facsimile, mail, or in person upon request by the public, provided that the station broadcast periodic announcements of how and where the public can obtain the material terms in written form. The Petition also seeks to permit online disclosure on a station's website, if it has one, or on the website of the station's state broadcaster association, if permitted by the state association.

¹ 47 C.F.R. § 73.1216.

² *See id.*

³ *See id.*, Note 2.



The Association supports the Petition for the following reasons.

First, as discussed in the Petition, members of the public are accustomed to interacting with broadcast stations through station websites. Television and radio station website addresses have for years been part of the on- and off-air “brands” of many local stations, leading to a broad public awareness of local station websites. The website addresses are routinely referenced on the air and in station logos. Consumers are also easily able to locate station websites through Internet search engines. Accordingly, over the years, station websites have become an important complement to broadcast station operations and an integral part of the way stations and their audiences communicate with each other. For example, anyone who has visited a station’s local public inspection file knows that, more often than not, the “letters and emails from the public” folder⁴ is filled with emails submitted through the station’s website. Moreover, although the Association has not formally surveyed its membership with respect to website use metrics, one member with an AM/FM combination has reported an average of more than 628,000 monthly website page views and nearly 19,500 monthly contest webpage views for its two station websites. Thus, it is clear that the public is accustomed to obtaining, and routinely does obtain, important information about stations, including the material terms of contests, via station websites. The proposed revision to the station-conducted contest rule correctly recognizes this fact.

Furthermore, even though the public is generally aware of how to locate station information on the Internet, the proposed revision to the rule does not leave it to the public to search out the material terms of the contest. Instead, the proposed rule requires stations to broadcast periodic announcements explaining how and where the public can obtain the material terms. This is a logical and appropriate extension to the existing rule requiring periodic on-air announcements that accounts for the manner in which the public communicates with and receives information from broadcast stations.

Second, the Association agrees with the argument in the Petition that the proposed rule will better serve the intended purpose than the existing on-air disclosure requirement. The reason for the rule is to provide listeners and viewers with full, accurate, and fair disclosure of the material terms of the contest so they can make informed decisions about whether and how to participate.⁵ On-air disclosure of material terms may work easily and well for relatively simple contests—for example, straightforward “call in and win” contests. For this reason, the Association supports having the option to make material terms disclosure over the air. However, stations today frequently conduct complex contests with multiple entry mechanisms and qualification or elimination rounds, the material terms of which are difficult to convey on air in a way that the audience can thoroughly understand. For example, some of our member stations offer contests involving dozens of prizes awarded to one or more winners; some offer contests with an event component involving three or more elimination rounds; and some offer contests that require the performance of one or more complicated tasks in order to enter. For these more

⁴ See 47 C.F.R. § 73.3526(e)(9).

⁵ See *Amendment of Part 73 of the Commission’s Rules Related to Licensee-Conducted Contests*, Report and Order, FCC 75-854, ¶ 2 (1976); 41 Fed. Reg. 43152 (1976) (entitled “Fair Disclosure Requirements”).

complex contests, disclosure in writing is the best way to inform prospective participants of the material terms that define participation in and operation of the contest at issue—especially in such instances, written disclosure via the Internet is clearly superior to on-air disclosure.

Third, the proposed rule modification is fully consistent with the Commission’s recognition that the Internet is an appropriate, and even enhanced, regulatory compliance mechanism for the broadcast medium. In August 2012, the Commission replaced the local public inspection file rule for television stations with the online public inspection file to be hosted by the Commission.⁶ Links to the television station’s online public file must also be available from each station’s website, if it has one. For years the public file was required to be maintained locally at each station’s main studio. However, in adopting the new online public file rules, the Commission observed, “[t]his updating of our rules harnesses current technology to make information concerning broadcast service *more accessible to the public* and, over time, reduce broadcasters’ costs of compliance.”⁷ This rationale is equally applicable to the station-conducted contest rule.

The Internet is also used to meet regulatory requirements other than the new online public file rule. For several years now, the Commission has required television stations to include on station websites contact information for station personnel who can address both immediate and non-immediate closed captioning concerns.⁸ This information is also available on the Commission’s website.⁹ The FCC has also required each radio and television station subject to the annual EEO public file report requirement to post these annual reports to the station’s website, if it has one.¹⁰ Allowing stations to meet their contest disclosure requirements by posting the material terms to station websites is a logical and appropriate extension of the Commission’s existing approach to the use of station websites to meet broadcast regulatory obligations.

Finally, the Association wishes to make the Commission aware that it is willing to explore with its member stations the use of the Association’s website capabilities to post contest rules for its member stations. Should a formal rulemaking be launched, the Association will examine that issue more fully with its board, membership, and legal counsel.

⁶ See *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations; Extension of Filing Requirement for Children’s Television Programming Report*, Second Report and Order, FCC 12-44 (Apr. 27, 2012) (hereinafter, “*Online Public File Order*”). At this time, the online public file rules apply only to television stations. Letters and emails from the public and political file materials existing before August 2, 2012, the effective date of the new rules, are exempted from the online public file requirement and are to be maintained locally for the required duration. As of August 2, 2012, television stations are required to post new public file material to the online public file, except that new political file material is only required to be posted online for ABC, CBS, Fox, and NBC affiliated stations in the top fifty markets. New political file material will be required to be posted online for all television stations as of July 1, 2014.

⁷ *Online Public File Order*, ¶ 1 (emphasis added).

⁸ See 47 C.F.R. § 79.1(i)(1)-(2).

⁹ See “Search VPDs,” available at <http://esupport.fcc.gov/vpd-search/search.action>.

¹⁰ See 47 C.F.R. § 73.2080(c)(6).

For the reasons discussed above, the Association respectfully requests that the Commission promptly issue a Notice of Proposed Rulemaking to formally initiate the rulemaking process to implement the rule changes requested in the Petition.

Respectfully submitted,

A handwritten signature in blue ink that reads "Dick Harlow". The signature is fluid and cursive, with a long horizontal stroke at the end.

Dick Harlow
President
North Carolina Association of Broadcasters

Certificate of Service

The undersigned does hereby certify that I caused a copy of the foregoing to be placed in the U.S. Mail, first-class postage prepaid, addressed as follows:

John C. Donlevie
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Entercom Communications Corp.
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This the 19th day of December, 2012.



Elizabeth E. Spainhour